Amendment Conference of the States Parties to the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water

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Letter dated 7 December 1990 from the Secretary-General of the Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (OPANAL) addressed to the Provisional Secretary-General of the Amendment Conference

You will find enclosed herewith in writing the comments of the Agency to be circulated as a document of the Conference of the States Parties to the Treaty Banning Nuclear Weapons Tests in the Atmosphere, in Outer Space and under Water, as rule 44 (4) of the draft rules of procedure requires.

(Signed) Dr. Antonio Stempel Paris
Secretary-General OPANAL

Annex

Comments by the Secretary-General of the Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean

One of the international instruments in effect at the time the wording of the Treaty for the Prohibition of Nuclear Weapons in Latin America, particularly article 18 thereof, was being discussed, was the Moscow Treaty of 5 August 1963, and it was taken very much into account. Indeed, in resolution 9 (II) of the Preparatory Committee for the Denuclearization of Latin America (COPREDAL/19), which contained preliminary draft articles on verification, inspection and control, it was proposed that participating Governments should adopt article "L" entitled "Explosions for peaceful purposes" which I shall proceed to quote: "The Parties agree not to trigger any explosions of nuclear devices for peaceful purposes or to collaborate with third parties for that purpose, save if they do so in conformity with the provisions of this article and with those of the treaty banning nuclear tests in the atmosphere, in outer space and under water, signed in Moscow on 5 August 1963, and any amendments thereto. Any explosion carried out on the basis of the provisions of this article will not be considered as violating article "A" of this Treaty." (Article "A" referred to the obligations inherent to the Treaty and is now article 1 of the Treaty.)

The co-ordinating committee for the drafting of the treaty commented on the above-mentioned article "L" as follows: "The purpose of this article is to ensure the following: (a) that this Treaty in no way hampers the development of activities for the peaceful uses of nuclear energy and (b) that no explosion for peaceful purposes may be used for the acquisition of military advantages" ... "As a result, utilization of nuclear energy for peaceful purposes would not be affected by the prohibitions of the Treaty. This article refers only to explosions which involve devices similar to those used in nuclear weapons. It is worth pointing out, as part of the background to these provisions that, at the 1960 Conference for the suspension of nuclear tests in all areas, it was considered necessary to include such a provision, since otherwise all types of nuclear explosions would have been banned."

It is true that, at the time, the multiple consequences of such explosions were totally disregarded; the desire was to safeguard the right of parties to the Treaty to carry out such explosions in relation to the peaceful uses of nuclear energy. Moreover, no account was taken of the fact that, given the provisions of article 1 of the Treaty, a nuclear device could not be produced within the nuclear-weapon-free zone since the method used to produce such a device was no different from the method used to produce a device for military purposes. In any event, the phrase "including explosions which involve devices similar to those used in nuclear weapons" was accepted and forms part of article 18.

Later on the Co-ordinating Committee for the drafting of the Treaty of Tlatelolco commented on article 18 as follows: "In paragraph 1, the reference to the Moscow Treaty has been deleted being considered superfluous since that Treaty contains no express provision on the subject to which this article relates. The

purpose of the amendments to this same paragraph 1, which is now worded positively, is to make it quite clear that the Treaty in no way prohibits explosions for peaceful purposes - including, as was stated specifically in the debates during the second session of COPREDAL, without any disagreement, the opening of canals linking oceans - but simply regulates such explosions so that they do not adversely affect implementation of the provisions of the Treaty."

Article 29 of the Treaty of Tlatelolco again demonstrates how account was taken of both the Moscow Treaty and the draft articles of the Treaty on the Non-Proliferation of Nuclear Weapons. The above-mentioned co-ordinating committee commented on this matter as follows: "This article proposes a revision procedure similar to that contained in the Treaty banning nuclear tests in the atmosphere, in outer space and under water signed in Moscow on 5 August 1963 and to those proposed in the draft treaties to prevent the proliferation of nuclear weapons submitted by the United States of America and the Soviet Union respectively to the United Nations General Assembly at its twentieth session."

After the signing of the Moscow Treaty, the subsequent chain of underground nuclear explosions carried out by the nuclear-weapons States resulted in the improvement of these weapons; the military secrecy surrounding their purposes meant that the only ones to benefit from those tests were those same major Powers.

There is no doubt that between 1945 and 5 August 1963, the date on which the United States of America, the United Kingdom and the Soviet Union signed the partial test-ban Treaty, those three States conducted, on average, 30 tests per year; however, since 1963 that average has been over 40 tests per year.

Prior to 1963, the strategic nuclear arsenals of the super-Powers consisted primarily of a fleet of heavy long-range bombers and some intercontinental ballistic missiles (ICBM) and submarine-launched ballistic missiles (SLBM). Today, these arsenals are made up of countless ballistic projectiles, missiles, communications and warning systems that defy the imagination. The destructive power of these arsenals has increased hand in hand with their qualitative improvements.

This uncontrolled arms race which has continued apace, notwithstanding the existence of the Moscow Treaty and of the Treaty on the Non-Proliferation of Nuclear Weapons, has steadily strengthened the initiative of a few countries that do not possess nuclear weapons to bring about the amendment of the partial test-ban Treaty so as to turn it into a total test-ban treaty; this clearly would have a beneficial impact on general and complete disarmament and on the complete eradication of nuclear weapons.

We are fully aware of the difficulties which an initiative of this nature encounters; however, we believe that sooner or later it will triumph and that the Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean, which is responsible for ensuring that the obligations of the Treaty of Tlatelolco are carried out, must lend the initiative its warmest support within the terms of the preamble to the Treaty itself where the signatories declare their firm intention to "contribute, so far as lies in their power, towards ending the

armaments race, especially in the field of nuclear weapons, and towards strengthening a world at peace, based on the sovereign equality of States, mutual respect and good neighbourliness."

While it is true that article 18 of the Treaty of Tlatelolco permits the conducting of nuclear explosions for peaceful purposes, under strict conditions, fortunately, in practice, no such explosions have been carried out to date. Moreover, it has become evident at the scientific level, that there is no difference between a device to conduct nuclear explosions for peaceful purposes and one used for purposes of war.

It is also true that article 18 of the Treaty of Tlatelolco has been subject to many interpretations, but we hope that, sooner rather than later, the proposed amendment to the Moscow Treaty, which would ban all nuclear explosions without exception, will put an end to all controversy.

The drafters of the Treaty of Tlatelolco and of the non-proliferation Treaty alike lacked the experience which we now have concerning the radiation effects of each nuclear explosion, which are undoubtedly affecting Earth. There will be much to talk about and to discuss before reaching agreement on the subject, but the fact is that there are five nuclear Powers, and several more countries are on the way to becoming nuclear Powers or have already done so but are not admitting to it, and we cannot look on passively while vertical and horizontal proliferation continues, and while the vast majority of countries in the world are forced to suffer the serious present and future consequences of this uncontrolled race.

In addition, it is worth pointing out that the will of Latin America for peace and general and complete disarmament has been constant and consistent, not only because Latin America established the first nuclear-weapons-free zone in a densely populated region but also because it contributed to the declaration of the "zone of peace and co-operation of the south Atlantic" and because plans are currently under way to formulate a treaty on a zone of peace and co-operation in Central America and the Caribbean and another on a zone of peace of South America.

All this is perfectly in line with the climate of détente in which we are now living, following the end of the cold war, which is certainly strengthening and consolidating the prospects for a world that will finally be free from the threats that have terrorized our planet for a number of decades.

We hope that all this will bring the great Powers which possess this terrible nuclear arsenal to understand that the time has come to put an end to nuclear tests.